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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/761,139	01/16/2001	Mark Moir	001345	3420
24118	7590	09/27/2004	EXAMINER	
HEAD, JOHNSON & KACHIGIAN 228 W 17TH PLACE TULSA, OK 74119			BELIVEAU, SCOTT E	
			ART UNIT	PAPER NUMBER
			2614	

DATE MAILED: 09/27/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/761,139	MOIR, MARK	
	Examiner	Art Unit	
	Scott Beliveau	2614	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 February 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>4/9/02</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Drawings

2. The drawings are objected to because of several informalities. First, it is unclear as to which elements are being referenced by the arrows utilized. For example, it is unclear that the arrows for elements "2" and "4" and "18" and "20" are actually referencing different elements. Element "12" appears to be referencing two separate cells. Furthermore, elements "12" and "16" are described in the specification as referencing a "dotted line", however, the figure points to a solid line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not

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accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

3. The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 5-7 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for calculating and displaying the time difference between the start of a particular program and the start of the time bar or the end of a particular program and the end of the time bar, does not reasonably provide enablement for calculating and displaying the time difference between the start of a particular program and the end of the time bar or calculating and displaying the time difference between the end of a particular program and the start of the time bar. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make or use the invention commensurate in scope with these claims. In particular, the claim language "as appropriate" is not limiting such that the alternatively claimed "start or finish times of the time bar" and

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the “start or finish times of the particular program” necessarily exhibit a respective start time / stop time relationship between one another as described in the specification with respect to the calculation of Figure 1. For the purpose of art rejection, the examiner shall presume that claim language has been amended such that the calculation is based solely on either calculating and displaying the time difference between the start of a particular program and the start of the time bar or the end of a particular program and the end of the time bar as disclosed and illustrated.

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claim 6 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim language of “providing a the display is provided” is indefinite. In particular, it is unclear if the claim is attempting to refer back to the previous recitation of the “display page” or if the claim is to be interpreted as simply providing an additional element of “a display”. For the purpose of art rejection the examiner, in view of the previous assumptions of claim 5, will assume that “a the display” is referencing the same display page of Figure 1 such that the claim provides the cell of the particular program that has already started prior to the time period displayed on the display page or finishes after the time period displayed on the display page with an additional portion.

8. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim recites the limitation “said time indications”. There is insufficient

antecedent basis for this limitation in the claim. For the purpose of art evaluation, the examiner shall presume that “said time indications” is referencing the start, finish, and calculated difference times illustrated in Figure 1.

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 1-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. (US Pat No. 5,585,838) in view of Matthews, III (US Pat No. 5,654,748).

In consideration of claim 1, the Lawler et al. reference discloses a “television program guide display providing information relating to programs which can be selected to be viewed”. As illustrated in Figure 3, the “display” [78] comprises a “grid” [80] having a “time bar to indicate the particular time period to which the display relates” [82], a “series of cells . . . representing a program” [88] and further “selectable to select a program for viewing”, and “one or a number of the cells representing a program channel” [84] (Col 8, Line 21 – Col 9, Line 6; Col 13, Line 61 – Col 14, Line 1). The reference further includes a “display portion” [108] wherein “if a program indicated by a cell does not start or finish within the time period represented by the time bar on the display”, the “display portion is generated on the display with respect the said cell for the program at an appropriate location” [108] subsequent to the user selecting that cell. The time period represented by the time bar is

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disclosed to comprise any number of columns (Col 9, Lines 24-26). As illustrated in Figure 8, the reference illustrates that the cell is operable to display the remaining time in the program. Accordingly, the “display portion” [108] of Lawler et al. does not “show the time which has elapsed since the program started and/or which will lapse beyond the time period shown before the program ends, but suggests that the “display portion” [108] is operable to display more detailed information about a selected program (Col 10, Lines 20-22).

The Matthews, III reference discloses that it is known in the art that for a “display portion” [78] to “show the time which has elapsed since the program started” (Col 5, Lines 44-49). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Lawler et al. “display portion” [108] to further comprise more detailed information about a selected program including the “time which has elapsed since the program started” for the purpose of providing the user with additional information so as to facilitate informed program selections (Matthews, III: Col 7, Lines 61-62).

Claim 2 is rejected in light of the aforementioned wherein “for any particular time period a plurality of cells corresponding to a plurality of programs show the time which has elapsed since each program started and/or which will lapse beyond the time period shown before the program ends” (Matthews, III: Col 5, Lines 44-49).

Claim 3 is rejected wherein the “time displayed is calculated from the start or end times for the time period shown”. For example, turning to Figure 3 of Lawler et al., assuming that it was currently 4:06 PM, then the “time displayed” once a user selected Babylon 5 would be calculated from the time period shown or 4:00 PM since the aforementioned time remaining

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or time elapsed is based upon the start of the program with coincides with a time period shown.

Claim 4 is rejected wherein the “time displayed is calculated with respect to the time at which the display is being viewed by the user”. For example, if it is currently 9:36 PM, then the display [108] displays either the time elapsed or the time remaining in the program (ex. 24 minutes in the case of Northern Exposure).

Claim 5 is rejected wherein the Lawler et al. reference discloses a “method of generating a television program guide . . . including at least one display page comprising a grid” (Figure 3). The method comprises “generating said grid” [80] by “providing a time bar” [82] and a “series of cells . . . indicating a program to be shown on a particular channel over the time period displayed” [88] and “indicating the start, finish and length of each program with respect to the time bar” (Col 8, Line 32 – Col 9, Line 17). The “time bar” [82] is operable to comprise any number of columns (Col 5, Lines 24-26). The reference further includes a “display” [108] wherein “if a cell for a particular program indicates that the said program has already started prior to the time period displayed on the display page or finishes after the time period displayed on the display page” a “calculation” is made subsequent to the user selecting that cell. As aforementioned, the reference does not “calculate between the start or finish times of the time bar and the start or finish times of the particular program as appropriate” with the “difference [being] displayed”. Rather the reference, discloses that the embodiment is operable to display the time remaining and further suggests that the “display” [108] is operable to display more detailed information about a selected program (Col 10, Lines 20-22).

The Matthews, III reference discloses that it is known in the art that for a "display" [78] to display the time which has elapsed since the program started" (Col 5, Lines 44-49). Accordingly, it would have been obvious to one having ordinary skill in the art at the time the invention was made so as to modify the Lawler et al. "display" [108] to further comprise more detailed information about a selected program including the time which has elapsed since the program started for the purpose of providing the user with additional information so as to make informed program selections (Matthews, III: Col 7, Lines 61-62).

Taken in combination, the combined teachings would "calculate between the start or finish times of the time bar and the start or finish times of the particular program as appropriate". For example, turning to Figure 3 of the Lawler et al. reference, if a user selected the program "My Fair Lady" which started prior to 2:30 PM as noted by the indicator [90] (not shown in figure) (Col 9, Lines 7-17) and it is currently 2:30 PM which is the first and/or only time period illustrated, then the system would calculate between the start time of the time bar which coincides with the current time and the actual start time of the program and display the difference of 30 minutes so to indicate that the program started 30 minutes ago or 30 minutes prior to what is illustrated in the time bar.

Claim 7 is rejected wherein the method further includes "transmitting the calculation and data relating to the calculation from a broadcaster at a remote location to a broadcast data receiver so that during the processing of the data, the broadcast data receiver can generate the display page to include said time indications" (Lawler et al.: Figure 1; Col 12, Line 60 - Col 13, Line 15).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as follows. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of the art disclosed by the references cited and the objections made.

- The Morrison et al. (US Pat No. 6,601,238) reference discloses a method and system for displaying program information from a plurality of sources including an icon indicating a future or previously matched program.
- The Gagnon et al. (US Pat No. 6,522,342) reference discloses an electronic program guide that is operable to display information indicating a program start time if it is not within the display range of the guide (Figure 12).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Scott Beliveau whose telephone number is 703-305-4907.

The examiner can normally be reached on Monday-Friday from 8:30 a.m. - 6:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Miller can be reached on 703-305-4795. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access


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to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197

(toll-free).

SEB

August 27, 2004

A handwritten signature in black ink, appearing to read "John Miller", with a long horizontal flourish extending to the right.

JOHN MILLER
TECHNICAL PATENT EXAMINER
EBC CENTER 2600